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Assistant Commissioner for Patents
Washington, D.C. 20231 On 22 Jan. 2003

TOWNSEND and TOWNSEND and CREW LLP

By: Malinda A. Dagit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Murray, et al.

Application No.: 09/637,977

Filed: August 11, 2000

For: NOVEL METHODS OF DIAGNOSIS
OF ANGIOGENESIS, COMPOSITIONS,
AND METHODS OF SCREENING FOR
ANGIOGENESIS MODULATORS

Examiner: Christopher H. Yaen

Art Unit: 1642

RESPONSE TO RESTRICTION
REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the restriction requirement mailed October 22, 2002, Applicants elect the sequence X83107, BMX non-receptor tyrosine kinase, at page 72, line 20; page 124, line 6; page 139, line 31; and page 171, line 39. The claims that read on the elected invention are pending claims 8, 30, and 34-37.

This response is accompanied by a fee authorization for a two month extension of the time for response from November 22, 2002 to January 22, 2003.

The foregoing election is made with traverse, as in accordance with the policies set forth in the MPEP, the election requirement should properly be a species election requirement. Further, the examination of multiple sequences together does not impose an undue burden on the Examiner.

As noted in MPEP § 803.02, Markush-type claims can include independent and distinct inventions. The examiner may then require a provisional election of a single species. Should no prior art be found that anticipates or render

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Attorney Docket No.: 018501-006510US
Client Ref. No.: ANG 001-1 US

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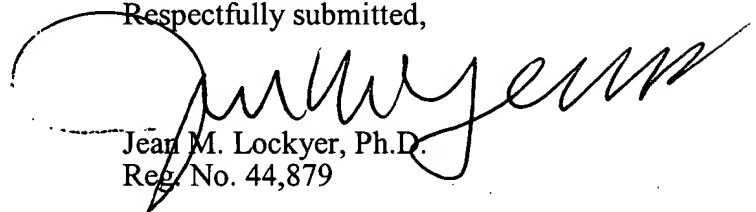
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obvious the elected species, the search of the Markush-type claim will be extended. Applicants submit that in view of these guidelines, the election requirement should properly be a species election requirement.

A species election requirement is also consistent with the Patent Office policy set forth at MPEP § 803.04 regarding restriction and nucleotide sequences. There, it states that the Patent Office will examine a reasonable number of sequences in a single application. In particular, the passage notes that normally ten unrelated sequences constitute a reasonable number for examination purposes. Accordingly, up to ten independent distinct nucleotide sequences will be examined in a single application without restriction. Thus, Applicants submit that examination of multiple species, *e.g.*, up to ten, is not regarded by the Patent Office as an undue burden. Applicants respectfully request withdrawal of the restriction requirement.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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